

FILED**JUL 08 2005**

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

BERNARD J. IRON SHELL,

Defendant.

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CR 04-30128

ORDER AND OPINION GRANTING
MOTION TO FILE LATE APPEAL

Defendant pleaded guilty to a superseding information charging involuntary manslaughter and was sentenced on June 20, 2005, to 72 months imprisonment. His judgment was entered on June 22, 2005.

Defendant filed a motion (Doc. 73) on July 7, 2005, to extend time to appeal. The time for filing a notice of appeal is governed by Fed. R. App. P. 4(b), which provides, in relevant part, that the notice of appeal in a criminal case must be filed within 10 days after the entry of the judgment. Taking into account Fed. R. App. P. 26, the notice of appeal was due July 7, 2005. Defendant filed his motion to extend within ten days of the filing of his judgment.

Fed. R. App. P. 4(b)(4) provides:

Upon a finding of excusable neglect or good cause, the district court may--before or after the time has expired, with or without motion and notice--extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b).

Defendant's motion to extend the time to appeal was timely filed. Good cause appearing,

IT IS ORDERED:

1. The motion (Doc. 73) to extend the time for filing an appeal is granted.
2. Defendant's time for filing a notice of appeal is extended to July 15, 2005.

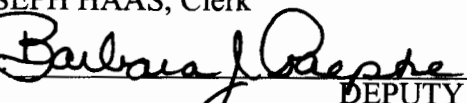
Dated this 8th day of July, 2005.

BY THE COURT:


CHARLES B. KORNMANN
United States District Judge

ATTEST:
JOSEPH HAAS, Clerk

BY


DEPUTY

(SEAL)